

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

|                           |   |                   |
|---------------------------|---|-------------------|
| RUSSELL WIMBLEY,          | ) |                   |
|                           | ) |                   |
| Petitioner,               | ) |                   |
|                           | ) |                   |
| v.                        | ) | Nos.: 3:06-cr-157 |
|                           | ) | 3:10-cv-241       |
| UNITED STATES OF AMERICA, | ) | (VARLAN/SHIRLEY)  |
|                           | ) |                   |
| Respondent.               | ) |                   |

**JUDGMENT ORDER**

In accordance with the accompanying Memorandum, the motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255 is **DENIED** as time-barred and this action is **DISMISSED**. Should the petitioner give timely notice of an appeal from this decision, such notice will be treated as an application for a certificate of appealability, which under the circumstances is **DENIED**. The Court **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous. Therefore, this Court hereby **DENIES** the petitioner leave to proceed *in forma pauperis* on appeal.

**E N T E R :**

s/ Thomas A. Varlan  
CHIEF UNITED STATES DISTRICT JUDGE

ENTERED AS A JUDGMENT

s/ Debra C. Poplin  
CLERK OF COURT